

Legal questionnaire completed by Norton Rose Fulbright • September 2025

This document contains responses from the law firm listed above to a questionnaire distributed by NCMEC (questions are in **bold text**). Responses to the questionnaire may be limited to officially enacted legislation; it is possible that actual practice or enforcement of the law varies, and relevant court rulings or case law may also differ from legislative text. Responses have been reformatted and may have been slightly edited for clarity. Furthermore, responses may include commentary, paraphrasing, and unofficial translations of source material (e.g., national legislation) originally produced in other languages. Only official source documents in official languages should be relied upon as legally binding. This document serves to inform further research and does not constitute legal advice from NCMEC or the listed law firm.

Is this jurisdiction a European Union (EU) Member State or otherwise subject to EU laws/regulations (such as an overseas territory or department of an EU Member State)?

Yes

1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your jurisdiction):

a. **child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)**

In the Netherlands, a minor is defined in article 1:233 of the Dutch Civil Code (*Burgerlijk Wetboek, boek 1*) as a person who has not yet reached the age of 18 years.

Dutch criminal law recognizes age distinctions in the context of sexual offences. Effective as of 1 July 2024, Title XIV Sexual Offences Act (*Wet seksuele misdrijven*) (“**Title XIV**”) has been introduced as a new section in the Dutch Criminal Code (*Wetboek van Strafrecht*). This section distinguishes between victims of sexual offences under the age of 12, between the ages of 12 to 16, between the ages of 16 to 18, and above the age of 18.

b. **child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

The exact term ‘child sexual exploitation’ is not explicitly defined in Dutch law. However, Title XIV of the Dutch Criminal Code criminalizes multiple forms of conduct which can be considered child sexual exploitation, with different legal consequences dependent on the age of the victim and whether the offence was committed with intent (*opzet*) or through negligence (*schuld*). Please note that although sexual assault (*aanranding*) or rape (*verkrachting*) of a minor under the age of 16 does not include explicit provisions on exploitation, because these acts are defined broadly for this age category, exploitation is also criminalized. For more information on the particulars of what sexual acts are criminalized in relation to minors under the age of 16, see section 1d “child sexual abuse” below.

The criminalized conduct which can be considered child sexual exploitation, includes:

- Sexual assault or rape of a minor between the ages of 16 to 18

Article 245(1) of the Dutch Criminal Code criminalizes conducting a sexual act with a minor between the ages of 16 to 18, while article 246 criminalizes such acts where the sexual act consists of or includes sexual penetration of the body (unofficial English translation):

if the offence is committed with abuse of authority arising out of an actual relationship between the parties, with the use of gifts, promises of money or property, or with deception; or

if the minor makes themselves available to perform sexual acts with a third party in exchange for payment.

- Human trafficking of a minor under the age of 18

In article 273f of the Dutch Criminal Code human trafficking of any person, regardless of age, is criminalized. Certain subsections, however, specifically relate the trafficking of minors under the age of 18.

Article 273f(1)(2°) of the Dutch Criminal Code criminalizes recruiting, transporting, transferring, accommodating, or receiving another person under the age of 18, including the exchange or transfer of control over that person, with the intention of exploiting that person or removing their organs.

Article 273f(1)(5°) of the Dutch Criminal Code criminalizes causing another person, who is under the age of 18, to make themselves available to perform sexual acts with or for another person in exchange for payment, or to make their organs available in exchange for payment, or undertaking any act with respect to the minor while knowing or reasonably suspecting that the minor thereby makes themselves available to perform such acts or make their organs available for payment.

Article 273f(1)(8°) of the Dutch Criminal Code criminalizes intentionally receiving a benefit from a sexual act performed by a person under the age of 18 with or for a third party in exchange for payment, or from the removal of their organs in exchange for payment.

Article 273g(2) of the Dutch Criminal Code increases the sentence for conducting a sexual act with another person while knowing or having a serious reason to suspect that this other person is making themselves available, in the manner prescribed in article 273(1)(1°), to conduct a sexual act with a third party in exchange for payment, where the other person is under the age of 18.

- c. **sexually explicit conduct (18 U.S.C. 2256(2), <https://www.law.cornell.edu/uscode/text/18/2256>)**

In Dutch law, 'sexually explicit conduct' is generally referred to as sexual acts. The Dutch Criminal Code separates two main forms of sexually explicit acts: sexual assault (*aanranding*) and rape (*verkrachting*).



With the expansion of the Dutch Criminal Code by Title XIV, more forms of sexual acts are criminalized. For example, alongside the already existing criminalization of certain physical sexual acts, online sexual acts have also become criminalized. This was introduced to address the increase in online sexual conduct, such as when a victim is required or induced online to perform sexual acts in violation of their bodily and sexual integrity.

In addition, article 239(2) of the Dutch Criminal Code expanded the definition of sexual acts to include situations where an individual causes another person to perform sexual acts with them, with themselves, or with a third party, or who causes a person to undergo sexual acts by a third party.

d. **child sexual abuse (18 U.S.C. 2243(a), <https://www.law.cornell.edu/uscode/text/18/2243>)**

In the Netherlands, child sexual abuse is a form of child abuse. According to the Youth Act (*Jeugdwet*), child abuse (*kindermishandeling*) is defined under article 1.1 as any form of interaction that is of a physical, psychological or sexual nature that is threatening or violent to a minor, actively or passively imposed by the parent(s) or other person(s) with whom the minor has a relationship of dependency, causing or threatening to cause serious physical or psychological harm to the minor. This definition is consequently limited to relationships with some form of dependency.

Title XIV of the Dutch Criminal Code includes broader provisions, criminalizing sexual assault, rape, and sexually approaching a minor, regardless of whether there is some form of dependency between the minor and other person. Different legal consequences are attached to these offences dependent on the age of the victim and if the offence was committed with intent (*opzet*) or through negligence (*schuld*). The types of conduct covered under this legislation include:

- Sexual assault or rape of a minor under the age of 16

Conducting a sexual act with a minor under the age of 16 is criminalized under articles 247 and 249 of the Dutch Criminal Code, and constitutes sexual assault. If the sexual act consists of or includes sexual penetration of the body, this constitutes rape of the minor and is criminalized under article 248 and 250 of the Dutch Criminal Code.

According to articles 247(3) and 248(3) of the Dutch Criminal Code, the two aforementioned forms of sexual acts with a minor between the ages of 12 to 16 will not be considered a criminal offence where the person is a peer i.e., of similar age to the minor in question, and they are of equal standing. This exception does not exist for such sexual acts with minors under the age of 12, meaning that any sexual act with a minor under the age is automatically criminalized.

- Sexual assault or rape of a minor between the ages of 16 to 18

Article 245(1) of the Dutch Criminal Code criminalizes conducting sexual acts with a minor between the ages of 16 to 18 (see also the provisions on sexual exploitation in section 1b “child sexual exploitation” above) (unofficial English translation):

if the minor is their child, under their care, raised by them, belonging to their family,



under their custody, subordinate to them, or whom is in another manner entrusted to their care, vigilance or education; or

if the minor is in a particularly vulnerable position, including due to a mental disorder, mental or physical disability, a state of dependency, or a state of physical or mental incapacity.

If the aforementioned conditions are deemed to exist, however, the sexual act in question consists of or included sexual penetration of the body, the act constitutes rape of a minor between the ages of 16 to 18 and is criminalized under article 246 of the Dutch Criminal Code.

- Sexual approach (*seksueel corrumperen*) of a minor (pretending to be) under the age of 16

In relation to a minor (pretending to be) under the age of 16, it is criminalized under article 251 of the Dutch Criminal Code for a person to (unofficial English translation):

in an intrusive manner, either verbally or in writing, sexually approach a minor in a manner that is considered harmful to people under the age of 16;

expose a minor to a sexual act or visual representation of a sexual nature or with an unmistakably sexual character, in a manner that is considered harmful to minors under the age of 16; or

propose a meeting for sexual purposes and take any action towards making the meeting happen.

The first subsection particularly aims to criminalize online and offline sexual approaches, including online sexual intimidation, the second subsection criminalizes sexual corruption, and the third subsection criminalizes grooming. As per article 251(3) of the Dutch Criminal Code, will not be considered grooming if the person proposing the meeting, or taking action towards making the meeting happen, is of similar age and of equal standing with the minor in question.

e. child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)

Child pornography (*kinderporno*) is defined in article 252 of the Dutch Criminal Code as a visual representation of sexual nature, or with an unmistakably sexual character, involving a person, or appearing to involve a person, who is clearly under the age of 18. It is criminalized to distribute, offer, publicly display, produce, import, transit, export, acquire, possess, or gain access to such material. This definition is also used in the Dutch Act on the Administrative Law Enforcement of CSAM (*Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal*) which has been in effect since 1 July 2024. This Act pushes hosting platforms to take action against online visual material of child sexual abuse and if the platform fails to take action, it may be fined.

In Title XIV of the Dutch Criminal Code the term 'image' in the definition of child pornography



has been replaced with ‘visual representation’ to broaden the scope of material considered child pornography. Article 239(3) of the Dutch Criminal Code defines visual representation as data suitable to form a visual representation, including such data contained in a data carrier like a hard drive or USB stick.

- f. **computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)**

Although computer-generated images or videos of child pornography or CSAM are not specifically defined in Dutch law, they fall in-scope of child pornography as defined in article 252 of the Dutch Criminal Code. This follows from announcements by the Dutch government, police, and a [policy rule](#) developed by the Dutch Public Prosecution Service (*Openbaar Ministerie*). Section 1.2 of the policy rule highlights that visual representations of pornographic material should be interpreted broadly and can be made through different means, including through the use of artificial intelligence (“AI”) or animations.

- g. **enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b), <https://www.law.cornell.edu/uscode/text/18/2422>)**

Article 251(1)(c) of the Dutch Criminal Code criminalizes grooming minors under the age 16. This is defined as proposing a meeting for sexual purposes and undertaking actions to realize the meeting, with a minor who is (pretending to be) under the age of 16.

Additionally criminalized is ‘sexchatting’. This is defined in article 251(1)(a) of the Dutch Criminal Code as verbally, or in writing, sexually approaching a minor that is (pretending to be) under the age of 16, in an intrusive manner and a manner considered harmful to minors under the age of 16.

Enticement of minors between the ages of 16 to 18 is criminalized under articles 245 and 246 of the Dutch Criminal Code. These articles criminalize sexual acts involving minors in this age group when specific circumstances are present. This includes situations involving abuse of a position of authority within an existing relationship, the use of deception, or the provision or promise of gifts, money, or other benefits. The provisions also apply when the minor makes themselves available to perform sexual acts with a third party in exchange for payment.

In addition, Article 273f(1)(5°) of the Dutch Criminal Code addresses enticement in the context of human trafficking. It criminalizes causing a minor under the age of 18 to make themselves available for sexual acts with or for another person in exchange for payment, or to offer their organs for compensation. The provision also applies to anyone who knowingly or reasonably suspects that another person is making themselves available for such acts or exchanging their organs for payment, and nonetheless takes action to facilitate or exploit that situation.

- h. **legal age of consent for sexual activity – are there laws and regulations, if so, what ages are specified?**

In the Netherlands, the legal age of consent is 16. This means that individuals aged 16 and



older are generally considered legally capable of consenting to sexual activity. However, Dutch criminal law includes important nuances based on age and circumstances.

For children under the age of 12, sexual acts are always considered a criminal offence under Dutch criminal law, regardless of whether the child appears to have given consent.

Sexual acts involving minors between the ages of 12 to 16 are punishable under Dutch law, even if the minor gives consent. Only in cases where the individuals are peers (*leeftijdsgenoten*) (i.e., of similar age and of equal standing), such acts are not criminalized.

From the age of 16 to 18, individuals are legally capable of consenting to sexual activity. However, the Dutch law continues to offer additional protections in specific circumstances, as highlighted in sections 1b. and 1d. above. At 18 years and older, individuals have full legal capacity to consent.

- i. **Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children's Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

No specific provision exists in relation to sextortion in Dutch law. Sextortion, however, is considered a form of extortion and is therefore criminalized on the ground of general extortion (*afpersing*) and intimidation (*afdreiging*) under article 317 and 318 of the Dutch Criminal Code. Extortion is defined in article 317 of the Dutch Criminal Code as anyone who, with the intention to unlawfully benefit themselves or another person, forces someone through the use or threat of violence, to hand over any property that wholly or partially belongs to them or a third party, or to incur or cancel a debt, or to make information available.

It may also be considered a form of intimidation, which is defined in article 318 of the Dutch Criminal Code as anyone who, with the intention to unlawfully benefit themselves or another person, forces someone by means of threats of defamation, libel, or disclosure or a secret to either hand over any property that wholly or partially belongs to them or a third party, or to incur or cancel a debt, or to make information available.

References:

1. [Book 1 of the Dutch Civil Code](#) (*Burgerlijk Wetboek, Boek 1*)
2. [Title XIV Sexual Offences Act](#) (*Wet seksuele misdrijven*)
3. [Dutch Criminal Code](#) (*Wetboek van Strafrecht*)
4. [Youth Act](#) (*Jeugdwet*)
5. [Dutch Act on the Administrative Law Enforcement of CSAM](#) (*Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal*)
6. [Policy rule on artificially created images](#) (*Aanwijzing kinderpornografie*)

2. **Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:**

- a. **review, screen, moderate, or detect content to identify child pornography or CSAM**

content

Legal and regulatory requirements or recommendations applicable to Online Platforms to undertake particular actions in regard to activities related to child sexual abuse are harmonized in the EU under [the Digital Services Act Regulation \(EU\) 2022/2065](#) (“**DSA**”). Please refer to the EU questionnaire for more information on EU-wide legislation.

The [Dutch Act on the Administrative Law Enforcement of CSAM](#) requires Online Platforms (particularly hosting service providers) to take measures to prevent child pornography and CSAM from being viewed and further disseminated, or to remove the material, while retaining data for the purposes of criminal prosecution and administrative proceedings.

Article 2 of the Dutch Act on the Administrative Law Enforcement of CSAM gives the Authority for the Prevention of Online Terrorist Content and Child Pornography (*Autoriteit Online Terroristisch en Kinderpornografisch Materiaal*) (“**ATKM**”), the authority to take action against hosting service providers, and if this is not possible then against the Online Platform, to make the reported visual material of child pornography inaccessible. To this extent, the ATKM is mandated to hand out orders (*bevel*), orders subject to penalty (*last onder dwangsom*), and administrative fines (*bestuurlijke boete*) to the hosting service provider. The ATKM can also investigate and share information related to the existence of child pornography to the extent needed to limit the sharing and spreading of such content to the public, where possible, in collaboration with private and public bodies.

The Act is specifically directed at hosting service providers; defined in article 138g of the Dutch Code of Criminal Procedure ([Wetboek van Strafvordering](#)) as a natural person or legal entity that in the course of its commercial activities offers communication services, or processes or stores data for the purposes of such a service. This includes social media platforms, video streaming services and internet service providers, as far as they offer data storage which is not purely an automatic feature or of short duration to provide a more efficient service to the user (‘caching’) as per the [Parliamentary Explanatory Memorandum, 2022-2023](#), 36 377. Nr. 3, p. 51.

If during a criminal investigation data is found relating to a criminal offence, or if there is a suspicion that a certain type of offence has been committed, articles 125o and 125p of the Dutch Code of Criminal Procedure state that the examining magistrate may order that such data is made inaccessible to the extent necessary to terminate the criminal offense or to prevent new criminal offences from occurring. Making the data inaccessible means that third parties must be prevented from accessing or using the data, as well as further dissemination of the data. The data must also be removed, while retaining data for the purposes of criminal proceedings. According to article 54a of the Dutch Criminal Code, an Online Platforms shall not be prosecuted for a criminal offence committed using its service if it complies with (i) an order as referred to in articles 125o and 125p of the Dutch Code of Criminal Procedure; or (ii) an order as referred to in the Dutch Act on the Administrative Law Enforcement of CSAM (as set out above).

b. review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child

The laws in the Netherlands regarding reviewing, screening, moderating, or detecting



content to identify enticement, grooming, or sextortion of a child are the same as those regarding child pornography or CSAM. This is due to the broad definition of child pornography in article 252 of the Dutch Criminal Code, which extends to visual representations with an unmistakably sexual character. Therefore, please refer to the answer provided in section 2a. above.

c. report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization

Laws and regulation relating to reporting child pornography, CSAM, enticement, grooming or sextortion are harmonized in the EU under the DSA. Please refer to the EU questionnaire for more information on EU-wide legislation.

Under the DSA, Online Platforms must cooperate with law enforcement and relevant authorities when illegal content is detected on their systems. This includes reporting child sexual abuse material and related harmful behavior to ensure appropriate follow-up and enforcement.

In the Netherlands, the ATKM is mandated under the Dutch Act on the Administrative Law Enforcement of CSAM to act on such reports (in the manner as set out in section 2a. above). Online Platforms, particularly hosting service providers, are expected to share relevant information with the ATKM and retain data for criminal prosecution and administrative proceedings. The ATKM may also collaborate with other public and private bodies to limit the spread of such content.

d. remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about

Online Platforms are required to remove or take down any child pornography, CSAM, grooming, enticement, or sextortion content that they identify, become aware of, or are notified about under EU and Dutch law.

Under the DSA, platforms must act promptly to remove illegal content, including child sexual abuse material, once detected or reported. This obligation is part of a broader framework to ensure safer digital environments and protect minors from exploitation.

In the Netherlands, the Dutch Act on the Administrative Law Enforcement of CSAM requires hosting service providers to take measures to prevent such material from being viewed or further disseminated. This includes the obligation to remove the content while retaining relevant data for criminal prosecution and administrative proceedings. Additionally, under the Dutch Code of Criminal Procedure courts are permitted to order the removal and inaccessibility of data related to sexual offences against minors to prevent further harm. For more information, please refer to the answer provided in section 2a. above.

e. review content by human moderators to screen or moderate for child pornography or CSAM



The legal and regulatory requirements or recommendations applicable to Online Platforms to review content for child pornography or CSAM is harmonized in the EU under the DSA. Rules regarding automated decision-making and human intervention is regulated in [General Data Protection Regulation](#) (“GDPR”). Please refer to the EU questionnaire for more information on EU-wide legislation.

- f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency**

Online Platforms are required to remove child pornography, CSAM, grooming, enticement, or sextortion content from their platform when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency.

Under the DSA, platforms must act promptly upon receiving notifications about illegal content, including child sexual abuse material, and take appropriate action to remove it. This obligation ensures that platforms respond effectively to reports from trusted sources and contribute to the protection of children online.

In the Netherlands, the Dutch Act on the Administrative Law Enforcement of CSAM requires hosting service providers to take measures to prevent such material from being viewed or further disseminated. This includes the obligation to remove the content while retaining relevant data for criminal prosecution and administrative proceedings. Additionally, under the Dutch Code of Criminal Procedure courts are permitted to order the removal and inaccessibility of data related to sexual offences against minors to prevent further harm. For more information, please refer to the answer provided in section 2a. above.

- g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:**
- i. “Hashing technology” (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.**

Legal and regulatory requirements or recommendations applicable to Online Platforms to undertake particular actions in regard to activities related to child sexual abuse are harmonized in the EU under the DSA. Please refer to the EU questionnaire for more information on EU-wide legislation.

There are no notable deviations from the DSA in this respect in the Netherlands.

- ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.**

Legal and regulatory requirements or recommendations applicable to Online Platforms to undertake particular actions in regard to activities related to child sexual abuse are harmonized in the EU under the DSA. Please refer to the EU questionnaire for more information on EU-wide legislation.

There are no notable deviations from the DSA in this respect in the Netherlands.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?

There is no distinction made between types of Online Platforms in this regard.

References:

1. [Digital Services Act Regulation \(EU\) 2022/2065](#) (*Digitaledienstenverordening*)
2. [Dutch Media Act](#) (*Mediawet*)
3. [Dutch Act on the Administrative Law Enforcement of CSAM](#) (*Wet bestuursrechtelijke aanpak van online kinderpornografisch materiaal*)
4. [Dutch Criminal Code](#) (*Wetboek van Strafrecht*)
5. [Dutch Code of Criminal Procedure](#) (*Wetboek van Strafvordering*)
6. [Parliamentary Explanatory Memorandum, 2022-2023](#) (*Regels over een bestuursrechtelijke aanpak van online kinderpornografisch materiaal*)
7. [General Data Protection Regulation](#) (*Algemene Verordening Gegevensbescherming*)

3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?

There are no laws in the Netherlands setting a minimum age for the use of Online Platforms, however specific sectors are required to verify the age of users, for example:

- Under article 20a(4) of the Dutch Alcohol Act ([Alcoholwet](#)), Online Platforms are prohibited from selling alcohol online to individuals whose age has not been verified to be over 18.
- According to article 31k(2)(a) of the Dutch Betting and Gaming Act ([Wet op de kansspelen](#)), online gambling providers may not offer their services until they have verified that the user is at least 18 years old.

Article 4.1a of the Dutch Media Act ([Mediawet](#)) obliges providers of audiovisual media to moderate audiovisual media that can do bodily, mental, or moral damage to minors under the age of 16, so that these minors would not normally be able to see or hear such media. Subsection 2 adds that the most harmful content, such as needless violence and pornography, must be made unavailable.

The Dutch government developed the Children's Rights Impact Assessment ([Kinderrechten Impact Assessment](#)) ("KIA"). The KIA is a voluntary tool that can be used by digital service providers, such as Online Platforms, to assess the rights and wellbeing of children in relation to digital services and to map the risks associated to the violation of children's rights. The assessment can be used as tool for accountability, but mainly aims to facilitate discussions about the impact of the digital service on children.

References:

1. [Dutch Alcohol Act](#) (*Alcoholwet*)
2. [Dutch Betting and Gaming Act](#) (*Wet op de kansspelen*)
3. [Dutch Media Act](#) (*Mediawet*)
4. [Children's Rights Impact Assessment](#) (*Kinderrechten Impact Assessment*)

4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?

Please refer to the EU questionnaire for EU-wide legislation in respect of the GDPR for the conditions regarding the consent of children with regard to information society services. When consent is used as the legal basis for offering such services directly to a child, article 8 of the GDPR stipulates that the processing of the child's personal data is only lawful if the child is at least 16 years old. If the child is under the age of 16, such processing is lawful if the consent is given by the person with parental responsibility. Furthermore, article 8(2) of the GDPR stipulates that Online Platforms should make reasonable efforts to verify that the person with parental responsibility has indeed given consent. Member States may provide for a lower age requirement by law, provided that such age is not below 13 years.

The Dutch General Data Protection Regulation (Implementation) Act ([*Uitvoeringswet Algemene verordening gegevensbescherming*](#)) ("**GDPR**") provides in article 5 that if article 8 of the GDPR does not apply, the consent of the person with parental responsibility is required for the processing of personal data of children under the age of 16. In such cases, the rights of data subjects, as referred to in Chapter III of the GDPR, shall be exercised by their legal representatives. This does not apply to preventive or counselling services that are offered to a minor directly and free of charge.

Additionally, article 9 of the Dutch Code for Children's Advertising ([*Kinder- en Jeugd reclamecode*](#)) provides that, in case of online sales (other than teleshopping), the seller or service provider must encourage a child to obtain parental consent before concluding a contract. The seller or service provider must take all measures that can reasonably be expected of them to ensure that such consent has been given. Article 12(2) of the Dutch Code for Children's Advertising stipulates that where legal consent is required for specific types of data processing involving a minor under the age of 16, the consent must be provided by the person with parental responsibility.

Article 20a(4) of the Dutch Alcohol Act provides that it is prohibited to sell alcohol to a person whose age has not been verified to be over the age of 18 where the sale is done online. A similar requirement applies to online gambling pursuant to article 31k(2)(a) of the Dutch Betting and Gaming Act.

References:

1. [General Data Protection Regulation \(Algemene Verordening Gegevensbescherming\)](#)
2. [Dutch General Data Protection Regulation \(Implementation\) Act \(Uitvoeringswet Algemene Verordening Gegevensbescherming\)](#)
3. [Dutch Code for Children's Advertising \(Kinder- en Jeugd reclamecode\)](#)
4. [Dutch Alcohol Act \(Alcoholwet\)](#)
5. [Dutch Betting and Gaming Act \(Wet op de kansspelen\)](#)

5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:

- a. **The ability to stop the publication of the pornography or CSAM imagery by the Online Platform?**

The Dutch Criminal Code provides in article 252 that anyone who distributes, offers or publicly displays a visual representation that is sexual in nature or has an unmistakably sexual character, involving or appearing to involve a person who has clearly not reached the age of 18 shall be punished with a maximum term of imprisonment of 6 years or a fifth category fine.

In addition to criminal prosecution, it is possible that criminal justice authorities request providers of a public internet services to remove content from the internet through a notice and takedown procedure. It is also possible to request immediate relief in urgent cases on the basis of article 254 of the Dutch Code of Civil Procedure ([*Wetboek van Burgerlijke Rechtsvordering*](#)), taking into account the interests of the parties.

b. An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?

This issue is regulated at the EU level under the DSA. Please refer to the EU questionnaire for more information on EU-wide legislation. There are no notable deviations from the DSA in this respect in the Netherlands.

c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?

If content is not removed voluntarily, the Dutch Public Prosecution Service can force the Online Platform to do so upon an order pursuant to article 54a of the Dutch Criminal Code in conjunction with article 6 of the Dutch Act on the Administrative Law Enforcement of CSAM. It may also be possible to request an injunction in preliminary relief proceedings (pursuant to 254 of the Dutch Code of Civil Procedure) on the basis of a wrongful act (*onrechtmatige daad*) pursuant article 6:162 of the Dutch Civil Code ([*Burgerlijk Wetboek, boek 6*](#)); or claim for performance or breach of the service agreement (if applicable) with the Online Platform pursuant to article 3:296 of the Dutch Civil Code ([*Burgerlijk Wetboek, boek 3*](#)).

d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?

Please refer to the answer provided in section 5c. above.

e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?

Financial damages as a result of criminal acts (such as set out in section 5a. above) can be claimed on the basis of article 6:162 of the Dutch Civil Code during a criminal proceeding pursuant article 51f of the Dutch Code of Criminal Procedure, or in a civil proceeding.

f. the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?

[*Schadefonds Geweldsmisdrijven*](#) and [*Slachtofferhulp Nederland*](#) are government-funded sources which provide victims with the option of applying to them for financial compensation.

g. notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?

It follows from article 51ac of the Dutch Code of Criminal Procedure that the Dutch Public Prosecutor shall ensure that the victim is informed without delay of his right to receive sufficient information about the commencement and progress of the case, following a criminal offence committed against the victim.

References:

1. [General Data Protection Regulation](#) (*Algemene Verordening Gegevensbescherming*)
2. [Dutch Criminal Code](#) (*Wetboek van Strafrecht*)
3. [Dutch Code of Civil Procedure](#) (*Wetboek van Burgerlijke Rechtsvordering*)
4. [Book 3 of the Dutch Civil Code](#) (*Burgerlijk Wetboek, Boek 3*)
5. [Book 6 of the Dutch Civil Code](#) (*Burgerlijk Wetboek, Boek 6*)
6. [Dutch Code of Criminal Procedure](#) (*Wetboek van Strafvordering*)
7. [Dutch Act on the Administrative Law Enforcement of CSAM](#) (*Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal*)

6. “Safety by Design” is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.

a. Are Online Platforms legally required to incorporate “Safety by Design” into their systems?

Online Platforms are not legally required to incorporate “Safety by Design” by Dutch law.

i. If so, must these steps be taken before the launch of an Online Platform?

This issue is regulated at the EU level under the DSA. Please refer to the EU questionnaire for more information on EU-wide legislation. There are no notable deviations from the DSA in this respect in the Netherlands.

ii. If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?

Article 6(1) of the Dutch Act on the Administrative Law Enforcement of CSAM provides that hosting service providers may be required, by a decree issued by the ATKM to take appropriate measures to limit the storage and transmission of child pornography and CSAM. Such a decree may be taken in respect of a hosting service provider that regularly encounters such material and fails to take sufficient action against it. The selection of measures to be taken remains at the discretion of the hosting service provider.

Article 54a of the Dutch Criminal Code provides that Online Platforms shall not be prosecuted for a criminal offence committed using its service if it complies with (i) an order as referred to in article 125p of the Dutch Code of Criminal Procedure (i.e., an order to immediately take all measures that can reasonably be required of an Online Platform to make certain data that is stored or transmitted inaccessible, insofar as this is necessary to end a criminal offence

or to prevent new criminal offences) or (ii) an order as referred to in article 6(1) of the Administrative Law Enforcement of CSAM (as set out above).

Both article 6(1) of the Dutch Act on the Administrative Law Enforcement of CSAM and article 54a of the Dutch Criminal Code could be interpreted to incentivize Online Platforms to incorporate 'Safety by Design' measures.

- iii. **For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.**

Please refer to the answers provided above.

- b. **Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform's incorporation of "Safety by Design"?**

The Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) ("**AP**") enforces and oversees the GDPR in the Netherlands (including the relevant provisions that relate to "Safety by Design" measures). The police in the Netherlands and Dutch Public Prosecution Service investigate and prosecute criminal offenses related to CSAM. The relevant authority under the Dutch Act on the Administrative Law Enforcement of CSAM is the ATKM and may issue an order to limit the storage and transmission of CSAM.

References

1. [Dutch Act on the Administrative Law Enforcement of CSAM](#) (*Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal*)
2. [Dutch Criminal Code](#) (*Wetboek van Strafrecht*)
3. [Dutch Code of Criminal Procedure](#) (*Wetboek van Strafvordering*)